

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Revision No.2420 of 2013
Date of decision: 28.1.2015

Bimal Kumar

....Petitioner

Versus

Gian Chand and others

...Respondents

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Mr. Arjunvir Sharma, Advocate for
Mr. Naveen Sharma, Advocate for the petitioner.

Mr. Vinod Khunger, Advocate for respondent no.1.

G.S.Sandhawalia J.(Oral)

Challenge in the present revision petition filed by the plaintiff is to the order dated 5.4.2013 (Annexure P/4) passed by the Civil Judge (Junior Division), Ludhiana wherein he has been directed to produce the agreement on record and supply copy of the same in order to facilitate filing of the written statement.

A perusal of the impugned order would go on to show that an application for rejection of plaint was also filed by defendants No.2,3,5 and 6 but no order has been passed on the said application. In the application dated 27.4.2012 specifically it was averred that the suit could not be filed on the basis of adverse possession. The trial Court has not applied its mind to the said averment and not passed any order on the application for rejection of plaint.

Accordingly, the impugned order dated 5.4.2013 is set aside with a direction to the trial Court to reconsider both the applications afresh keeping in view the law laid down in **Bhim Singh and others Vs. Zile Singh and others 2006(3) PLR 159** and **Gurudwara Sahib Vs. Gram Panchayat Village Sirthala and another 2014(1) SCC 669**. The trial Court shall also keep in mind the fact that even if the agreement is not produced, adverse inference can be drawn against the plaintiff.

Accordingly, with the aforesaid observations, the present revision petition is disposed of by setting aside the impugned order dated 5.4.2013 (Annexure P/4) and directing the trial to decide both the applications afresh.

28.1.2015
Pka

(G.S.SANDHAWALIA)
JUDGE